

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM ROSS,

Plaintiff,

v.

WASHINGTON STATE DOC, et al.,

Defendants.

CASE NO. C16-5469 RJB-KLS

ORDER DENYING MOTION FOR
COUNSEL

Before the Court is Plaintiff William Ross's motion for the appointment of counsel. Dkt 14. Mr. Ross states that he requires counsel to help him in his case and that he is not able to protect his rights without the assistance of counsel. Dkt. 14; 14-2.

DISCUSSION

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues

1 involved. *Wilborn*, 789 F.2d at 1331. Neither of these factors is dispositive and both must be
2 viewed together before reaching a decision on request of counsel under Section 1915(d). *Id.*

3 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* but has not
4 demonstrated that the issues involved in this case are complex. Plaintiff's incarceration and
5 limited access to legal materials are not exceptional factors constituting exceptional
6 circumstances that warrant the appointment of counsel. Rather, they are the type of difficulties
7 encountered by many *pro se* litigants. Plaintiff has also not shown a likelihood of success on the
8 merits. *See, e.g., Wilborn*, 789 F.2d at 1331.

9 Accordingly, it is **ORDERED**:

10 (1) Plaintiff's motion for the appointment of counsel (Dkt. 14) is **DENIED**.

11 (2) The Clerk of Court is directed to send a copy of this Order to plaintiff and to
12 counsel for defendants.

13 Dated this 8th day of December, 2016.

14
15 

16 Karen L. Strombom
17 United States Magistrate Judge
18
19
20
21
22
23
24